

# **COUNTY OF YORK**

## **MEMORANDUM**

**DATE:** November 3, 2004 (11/16/04 BOS Mtg.)

**TO:** York County Board of Supervisors

**FROM:** James O. McReynolds, County Administrator

**SUBJECT:** Application No. SE-15-04, Southern Maryland Oil, Inc.

### **ISSUE**

This application requests a Special Exception, pursuant to Section 24.1-245(c) of the York County Zoning Ordinance, to establish requirements for the replacement of trees that were removed without authorization from a required 35' greenbelt buffer along Victory Boulevard (Route 171) on a 0.93-acre parcel of land located at 600 Hampton Highway (Route 134). The property, occupied by a Shell gas station, is located in the southwest quadrant of the intersection of Hampton Highway and Victory Boulevard and is further identified as Assessor's Parcel 37-59A.

### **BACKGROUND**

A gas station (currently Shell, formerly Texaco) has been operating on the subject property for approximately fourteen years under a Special Use Permit approved by the Board in 1989. The property is a corner parcel fronting on Hampton Highway and Victory Boulevard, both of which are greenbelt roads. The only entrance to the property is a "right-in/right-out" entrance on Hampton Highway. Acting on guidance from a Virginia Department of Transportation employee, the applicant removed the trees within the required 35-foot greenbelt buffer along Victory Boulevard in the hopes of obtaining approval from the Commonwealth Transportation Board of a limited access break for the purpose of installing an entrance. Unfortunately, the applicant did not consult with County staff about Zoning Ordinance requirements prior to removing the trees.

Section 24.1-245(c) of the Zoning Ordinance states that greenbelts "shall be left in an undisturbed natural state, unless the board, after conducting a duly advertised public hearing, authorizes clearing or development." The property owner (Southern Maryland Oil, Inc.) received a notice of violation from the County's Development and Compliance Division (letter from Joycelyn Corbin dated September 22, 2004 attached). In addition, staff has since informed the applicant that the County would not likely support a break in the limited access on Victory Boulevard for the purpose of accessing the gas station.

Pursuant to Section 24.1-109(c)(3) of the Zoning Ordinance, failure to perpetuate and maintain all required landscaping is punishable by a civil fine of \$100 per violation; however, since the applicant's actions were based on advice received by a government official – albeit a state and not a County official – the applicant has been given an opportunity to rectify the situation by seeking Board approval of a plan for replanting the buffer in lieu of civil penalties being assessed.

## **CONSIDERATIONS/CONCLUSIONS**

The applicant has submitted a landscape plan showing how it proposes to replant the Route 171 greenbelt buffer. The plan depicts a row of 17 evergreen trees of varying species – including Loblolly Pine (6), Nellie Stevens (3), Magnolia Grandiflora (6), Foster Holly (2) – along the entire Route 171 frontage of the property, which is approximately 191 feet in length. The proposed plantings meet the minimum requirements of the Zoning Ordinance and, if planted in staggered double rows rather than in a straight line as shown on the plan, would restore the buffer area to a condition resembling its original undisturbed natural state. A condition has been included in the approval resolution to require staggered double rows. The recently approved County landscaping project for this segment of Route 171 will provide supplementary enhancement with the installation of bayberry/wax myrtles within the VDOT right-of-way.

Although no clearing was done along the subject parcel's Route 134 (Hampton Highway) frontage, the plan also shows tree and shrub plantings in that area. This was done at the suggestion of staff in the Development and Compliance Division to give the Board the option, if it so chooses, of requiring an enhanced buffer along Route 134, which is also a greenbelt road but has only a few low shrubs. Since the County has already shown a certain amount of leniency toward the applicant, I do not believe such a requirement would be unreasonable, and it could potentially deter others from clearing trees in a required greenbelt buffer. The applicant has requested that no new plantings be required along Route 134 (see attached letter from the applicant).

In addition, the plan shows six Foster Hollies to be planted along the corner frontage – approximately 47 feet in length – along the right turn lane from Route 171 onto Route 134. In calculating the landscaping requirements, the applicant's landscape architect assigned half of the corner frontage to Route 171 and half to Route 134; however, I believe that because of the orientation of the road and the visibility of the corner from Route 171 the entire corner frontage should be assigned to Route 171 and these six trees should be required regardless of whether or not any new plantings will be required along Route 134.

## **RECOMMENDATION**

Unfortunately, this after-the-fact application will not restore the mature trees that existed in this greenbelt buffer and that gave some aesthetic character to this corner. At this point in time the only decisions before the Board are whether or not the proposed landscape plan is an acceptable restoration effort and whether or not to require the applicant to install a greenbelt buffer along Route 134 in addition to restoring the buffer along Route 171. I am of the opinion that restoration of the Route 171 buffer as proposed by the applicant, including the six new tree plantings along the corner frontage, will provide an attractive screen in accordance with the spirit and intent of the greenbelt buffer regulations. Furthermore, as an additional measure to compensate for the violation of procedure, I believe that the supplementary landscaping along Route 134 should also be required. This can be accomplished through the adoption of proposed Resolution No. R04-161. Should the Board not wish to require additional plantings along the Route 134 front-

age, the Resolution will need to be revised by changing Condition #2 to read: "No new landscaping shall be required along the 174-foot frontage on Route 134."

Carter/3337:TCC

Attachments:

- Vicinity Map
- Letter from the applicant dated October 12, 2004
- Landscape plan (2 pages)
- Letter from Joycelyn Y. Corbin to John Binette, President, Southern Maryland Oil, dated September 22, 2004
- Proposed Resolution No. R04-161